

CHAPTER 39

STATE BOARD OF PHARMACY

Authority

N.J.S.A. 45:14-1 et seq.

Source and Effective Date

R.1999 d.214, effective June 16, 1999.
See: 31 N.J.R. 1151(a), 31 N.J.R. 1932(a).

Executive Order No. 66(1978) Expiration Date

Chapter 39, State Board of Pharmacy, expires on June 16, 2004.

Chapter Historical Note

Chapter 39, State Board of Pharmacy, was filed and became effective prior to September 1, 1969.

Chapter 39, State Board of Pharmacy, was repealed and adopted as new rules by R.1989 d.314, effective June 19, 1989. See: 20 N.J.R. 1648(a), 21 N.J.R. 1712(a).

Pursuant to Executive Order No. 66(1978), Chapter 39, State Board of Pharmacy, was readopted as R.1994 d.351, effective June 16, 1994. See: 26 N.J.R. 1596(a), 26 N.J.R. 2905(b), 26 N.J.R. 3878(a).

Pursuant to Executive Order No. 66(1978), Chapter 39, State Board of Pharmacy, was readopted as R.1999 d.214, effective June 16, 1999. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

13:39-1.1 Purpose and scope

(a) This chapter is promulgated by the New Jersey State Board of Pharmacy. The rules contained in this chapter implement the provisions of the Pharmacy Act, N.J.S.A. 45:14-1 et seq. and regulate the practice of pharmacy within the State of New Jersey.

(b) This chapter shall apply to all registered pharmacies, pharmacists, pharmacist applicants, interns, externs, supportive personnel and anyone within the jurisdiction of the Board of Pharmacy.

Amended by R.1994 d.351, effective July 18, 1994.
See: 26 N.J.R. 1596(a), 26 N.J.R. 2905(b).

Case Notes

Violations of N.J.A.C. 13:39-8.14(b)2, 10 and 13 found as controlled substances records were improperly kept, misbranded drugs were in pharmacy and drugs were improperly stored, respectively; penalties (also cited as N.J.A.C. 13:39-8.12). New Jersey State Bd. of Pharmacy v. Yanuzzi, 4 N.J.A.R. 489 (1981).

(e) When a patient, or his or her properly authorized representative, requests the transfer of a valid prescription between pharmacies, a pharmacist shall immediately comply with the patient's request. "Properly authorized representative" means a patient's spouse, next of kin, legal guardian, attorney or third party insurer where permitted by law.

Amended by R.1997 d.502, effective December 1, 1997.

See: 28 N.J.R. 5048(a), 29 N.J.R. 5072(a).

In (c), added "or electronic transfer"; and in (d), added the second sentence.

Amended by R.1999 d.214, effective July 19, 1999.

See: 31 N.J.R. 1151(a), 31 N.J.R. 1932(a).

In (a), added the last sentence; and added (e).

13:39-5.6 Record of pharmacist filling prescription

(a) A registered pharmacist who fills or compounds a prescription or who supervises the filling or compounding of a prescription by an intern or extern shall place his or her signature or readily identifiable initials on the face of the original prescription. In using an electronic data processing system, the initials of the pharmacist responsible for the filled prescription shall also be recorded.

(b) A registered pharmacist who refills a prescription shall place his or her signature or readily identifiable initials on the reverse side of the original prescription next to the date of the refill and the amount dispensed in refilling the prescription if it is different from the original amount prescribed. In using an electronic data processing system, the identical refill information shall also be recorded.

(c) A record identifying such initials with the signature and name and address of the pharmacist shall be maintained for a period of five years after the termination of employment of said pharmacist.

(d) Prescriptions for all controlled substances listed in schedule II shall be maintained in a separate prescription file.

(e) Except when they are kept in a separate file, prescriptions for all controlled substances listed in schedules III, IV and V shall be stamped in red ink in the lower right corner with the letter "C" no less than one-inch high.

(f) Prescriptions for all controlled substances listed in schedules III, IV and V shall be maintained in a single file separate from all other prescriptions, unless an electronic data processing system is utilized which meets the requirements of (i) below. If such an electronic data processing system is utilized, prescriptions for all substances listed in schedules III, IV and V shall be filed either in the prescription file for controlled substances listed in schedule II or in the usual consecutively numbered prescription file for non-controlled substances.

(g) If an electronic data processing system is utilized in connection with the dispensing of medication and the required recording of prescription information, a means ac-

ceptable to the Board shall be utilized to identify the pharmacist or intern or extern dispensing the medication.

(h) In using an electronic data processing system, the pharmacist in charge shall maintain a document log. The document log shall be maintained at the pharmacy for a period of five years after the date of the last entry. The five years of record information, including refills, shall be kept in such a manner as to be sight-readable within two weeks. The most recent one year of record information shall be immediately retrievable.

(i) In using an electronic data processing system, the system shall have the capability of producing sight-readable documents of all original and refilled prescription data, and, in addition, the number of refills authorized by the prescriber for a period of not less than five years. Five years of record information shall be maintained in such a manner so as to be sight-readable within two weeks. The most recent one year of record information shall be immediately reviewable on-line and available in printed form within three business days. The term "sight-readable", as it appears in all rules of the Board, shall mean that the Board or Attorney General shall be able to examine and read the record of information. During the course of an on-site inspection, the record may be read from a cathode ray tube (CRT), microfiche, microfilm, hard copy printout or other Board acceptable method. For the purpose of administrative proceedings before the Board, records shall be provided in a paper printout form.

(j) Initials and/or access code number(s) of the dispensing pharmacist and intern or extern, if applicable, shall be entered into the system each time a prescription is filled or refilled. Computer programs which automatically generate a pharmacist's initials without requiring a direct entry by the dispensing pharmacist at the time of dispensing are prohibited.

Amended by R.1991 d.355, effective July 15, 1991.

See: 22 N.J.R. 1866(b), 23 N.J.R. 2161(a).

Added new (d) through (f).

Redesignated existing (d)-(g) as (g)-(j).

Amended by R.1994 d.351, effective July 18, 1994.

See: 26 N.J.R. 1596(a), 26 N.J.R. 2905(b).

13:39-5.7 Availability of records upon termination of business

(a) Where a pharmacy ceases operation as the result of a suspension, retirement or death of the owner, sale or other cause including insolvency, the licensee, or the one responsible for supervising the disposition of the practice, shall make every effort to notify patrons of their right to retrieve currently valid prescriptions and the location of the prescriptions and profile records for a six-month period following notice, using all of the following methods:

1. Notification in writing to the Board;
2. Publication, once weekly for two successive weeks in a newspaper whose circulation encompasses the major

area of the licensee's former practice, of a notice advising patrons of the right to retrieve their prescriptions and the location of the prescriptions for a six-month period following publication; and

3. A sign placed in the pharmacy location informing the patrons of the right to retrieve their prescriptions and the location of the prescriptions.

13:39-5.8 Prescriptions and medication orders transmitted by technological devices

(a) A pharmacist may, subject to the conditions set forth in this section, accept for dispensing a prescription or a medication order transmitted by a facsimile (FAX) machine or other technological device as approved by the Board.

(b) A registered pharmacist at a retail pharmacy and a registered pharmacist filling prescriptions under an institutional permit for employees of the institution and their dependents and for out-patients who are treated by staff members of the institution in their respective clinics, as permitted pursuant to N.J.S.A. 45:14-32, may accept for dispensing prescriptions for all substances other than Schedule II controlled dangerous substances which have been transmitted by technological device, under the following conditions only:

1. Before releasing to other than an in-patient of a health care facility, as defined in N.J.A.C. 13:39-9.1, any prescription medication for a controlled dangerous substance listed in Schedules III, IV or V, the pharmacist shall obtain and file the original signed prescription.

2. The pharmacist shall, within 24 hours, reduce to hard copy, that is, record in his or her handwriting or enter into a computer, all prescriptions received by technological device other than prescriptions for Schedules III, IV and V controlled dangerous substances and shall place the copy in the permanent prescription file records.

(c) A registered pharmacist who is authorized to fill inpatient medication orders, as defined in N.J.A.C. 13:39-9.1, in an institutional pharmacy may accept all inpatient medication orders, including orders for Schedule II substances, which have been transmitted by technological device. Medication orders for narcotic Schedule II controlled substances written for long-term care facility residents or hospice patients, which are transmitted by facsimile, shall serve as the original written medication orders, in accordance with the provisions of 21 C.F.R. 1306.11(d), (e), (f) and (g).

(d) Whenever a pharmacist has reason to question the accuracy or authenticity of a prescription or medication order transmitted by technological device, the pharmacist shall verify the transmission directly with the prescribing practitioner.

(e) It shall be deemed professional misconduct for a pharmacist to use a technological device in order to circumvent his or her responsibilities with regard to documenting, authenticating and verifying medication orders and prescriptions or in order to circumvent other standards of pharmacy practice.

(f) No licensee or permit holder registered under N.J.S.A. 45:14-1 et seq. shall under any circumstances provide a technological device to, or accept a technological device from, any practitioner licensed to write prescriptions.

(g) No licensee or permit holder shall enter into any agreement with an authorized practitioner which denies the patient the right to have his or her prescription transmitted by technological device to a pharmacy of the patient's choice.

New Rule, R.1992 d.166, effective April 6, 1992.

See: 23 N.J.R. 2469(a), 24 N.J.R. 1371(a).

Amended by R.1999 d.214, effective July 19, 1999.

See: 31 N.J.R. 1151(a), 31 N.J.R. 1932(a).

In (c), added the last sentence.

13:39-5.9 Labeling

(a) The dispensed container for any product shall bear a permanently affixed label with at least the following information:

1. The name of the registered pharmacist-in-charge;
2. The pharmacy name and address;
3. The pharmacy telephone number;
4. The brand name or generic name;
 - i. If generic, the name of the manufacturer;
5. The date upon which prescription medication is dispensed;
6. A CDS cautionary label;
7. The patient name;
8. The initials of dispensing pharmacist;
9. The prescriber's name;
10. The prescription number;
11. Directions for use; and
12. The expiration date, if dispensed in any packaging other than the manufacturer's original packaging.
 - i. For purposes of this paragraph, "expiration date" means the earlier of one year from the date of dispensing or the expiration date on the manufacturer's container.